

## Department of Defense

## §9901.311

*Competencies* has the meaning given that term in §9901.103.

*Contribution* has the meaning given that term in §9901.103.

*Contribution assessment* means the determination made by the pay pool manager as to the impact, extent, and scope of contribution that the employee's performance made to the accomplishment of the organization's mission and goals.

*CONUS* or *Continental United States* means the States of the United States, excluding Alaska and Hawaii, but including the District of Columbia.

*Extraordinary pay increase* or *EPI* means a discretionary basic pay increase or bonus to reward an employee at the highest performance level who has been assigned the maximum number of shares available under the rating and contribution scheme when the payout formula does not adequately compensate them for the employee's extraordinary performance and contribution, as described in §9901.344(b).

*Local market supplement* means a geographic- and occupation-based supplement to basic pay, as described in §9901.332.

*Modal rating* means, for the purpose of pay administration, the most frequent rating of record assigned to employees in the same pay band within a particular pay pool for a particular rating cycle.

*Pay band* or *band* has the meaning given that term in §9901.103.

*Pay pool* means the organizational elements/ units or other categories of employees that are combined for the purpose of determining performance payouts. Each employee is in only one pay pool at a time. *Pay pool* also means the amount designated for performance payouts to employees covered by a pay pool.

*Pay schedule* has the meaning given that term in §9901.103.

*Performance* has the meaning given that term in §9901.103.

*Performance payout* means the total monetary value of a performance pay increase and bonus provided under §9901.342.

*Performance share* means a unit of performance payout awarded to an employee based on performance. Performance shares may be awarded in mul-

tiples commensurate with the employee's performance and contribution rating level.

*Performance share value* means a calculated value for each performance share based on pay pool funds available and the distribution of performance shares across employees within a pay pool, expressed as a percentage or fixed dollar amount.

*Promotion* has the meaning given that term in §9901.103.

*Rating of record* has the meaning given that term in §9901.103.

*Reassignment* has the meaning given that term in §9901.103.

*Reduction in band* has the meaning given that term in §9901.103.

*Standard local market supplement* means the local market supplement that applies to employees in a given pay schedule or band who are stationed within a specified local market area (the boundaries of which are defined under §9901.332(b)), unless a targeted local market supplement applies.

*Targeted local market supplement* means a local market supplement established to address recruitment or retention difficulties or other appropriate reasons and which applies to a defined category of employees (based on occupation or other appropriate factors) in lieu of the standard local market supplement that would otherwise apply.

*Unacceptable performance* has the meaning given that term in §9901.103.

### §9901.305 Bar on collective bargaining.

Pursuant to 5 U.S.C. 9902(f)(4) and (m)(7), any pay program established under authority of this subpart is not subject to collective bargaining. This bar on collective bargaining applies to all aspects of the pay program, including but not limited to coverage decisions, the design of pay structures, the setting and adjustment of pay levels, pay administration rules and policies, and administrative procedures and arrangements.

#### OVERVIEW OF PAY SYSTEM

### §9901.311 Major features.

Through the issuance of implementing issuances, the Secretary will

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establish a pay system that governs the setting and adjusting of covered employees' rates of pay and the setting of covered employees' rates of premium pay. The NSPS pay system will include the following features:

(a) A structure of rate ranges linked to various pay bands for each career group, in alignment with the classification structure described in subpart B of this part;

(b) Policies regarding the setting and adjusting of band rate ranges based on mission requirements, labor market conditions, and other factors, as described in §§ 9901.321 and 9901.322;

(c) Policies regarding the setting and adjusting of local market supplements to basic pay based on local labor market conditions and other factors, as described in §§ 9901.331 through 9901.333;

(d) Policies regarding employees' eligibility for pay increases based on adjustments in rate ranges and supplements, as described in §§ 9901.323 and 9901.334;

(e) Policies regarding performance-based pay, as described in §§ 9901.341 through 9901.345;

(f) Policies on basic pay administration, including movement between career groups, positions, pay schedules, and pay bands, as described in §§ 9901.351 through 9901.356;

(g) Linkages to employees' ratings of record, as described in subpart D of this part; and

(h) Policies regarding the setting of and limitations on premium payments, as described in § 9901.361.

### § 9901.312 Maximum rates.

The Secretary will establish limitations on maximum rates of basic pay and aggregate pay for covered employees.

### § 9901.313 National security compensation comparability.

(a) To the maximum extent practicable, for fiscal years 2004 through 2008, the overall amount allocated for compensation of the DoD civilian employees who are included in the NSPS may not be less than the amount that would have been allocated for compensation of such employees for such fiscal years if they had not been con-

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verted to the NSPS, based on at a minimum—

(1) The number and mix of employees in such organizational or functional units prior to conversion of such employees to the NSPS; and

(2) Adjustments for normal step increases and rates of promotion that would have been expected, had such employees remained in their previous pay schedule.

(b) To the maximum extent practicable, implementing issuances will provide a formula for calculating the overall amount to be allocated for fiscal years beyond fiscal year 2008 for compensation of the civilian employees included in the NSPS. The formula will ensure that in the aggregate employees are not disadvantaged in terms of the overall amount of compensation available as a result of conversion to the NSPS, while providing flexibility to accommodate changes in the function of the organization and other changed circumstances that might impact compensation levels.

(c) For the purpose of this section, “compensation” for civilian employees means basic pay, taking into account any applicable locality payment under 5 U.S.C. 5304, special rate supplement under 5 U.S.C. 5305, local market supplement under § 9901.332, or similar payment under other legal authority.

### SETTING AND ADJUSTING RATE RANGES

#### § 9901.321 Structure.

(a) The Secretary will establish ranges of basic pay for pay bands, with minimum and maximum rates set and adjusted as provided in § 9901.322.

(b) For each pay band within a career group, the Secretary will establish a common rate range that applies in all locations.

#### § 9901.322 Setting and adjusting rate ranges.

(a) Within his or her sole and exclusive discretion, the Secretary may, subject to § 9901.105(d)(2), set and adjust the rate ranges established under § 9901.321. In determining the rate ranges, the Secretary may consider mission requirements, labor market conditions, availability of funds, pay adjustments received by employees of